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Opinion

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CONCORD, N.H.

Mr. James J. Barry, Commissioner
Department of Public Welfare
State House Annex
Concord, New Hampshire

Re: Margaret Haskins, OAA Deceased, Laconia

Dear Mr. Barry:

In your letter of August 20, 1958, you solicited our opinion as to whether it would be proper for your Department to release a recovery overpayment from insurance to the "beneficiary of record" of the insurance. You explain that insurance owned by a recipient is assigned to your Department and in some cases, such as the above, the recipient expires and the total amount of the Department's claim for assistance furnished is less than the face value of the proceeds of the insurance.

Since receiving your letter we have discussed this matter with you and we understand that your Department employs no standard form of assignment but use such form of an instrument of assignment as is furnished by the company which issued the insurance.

While your letter does not recite the form of insurance involved in this particular case, we assume that this problem must frequently arise with respect to assignment of policies of life insurance rather than accident and health or other types of casualty insurance.

An assignment of a policy life insurance may be absolute, qualified or conditional, may or may not require the approval of the insurance company (depending upon the terms of the policy itself), or may be made solely as security for a debt. The effect of an assignment on an insurance contract is controlled by the terms of the policy and the instrument of assignment itself.

Mr. James J. Barry, Commissioner

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likewise the respective rights of your Department as assignee and the "beneficiary of record" are likewise to be determined by interpretation of the instrument of assignment.

From the foregoing it is obvious that it is impossible for us to give you an opinion which would apply in all cases.

If you will tell us the name of the company insuring Mrs. Haskins' life we will be pleased to communicate with them in order to procure a copy of the instrument of assignment and after studying same will then advise you as to the proper method of disposing of the excess overpayment remaining in your hands.

Very truly yours,

George T. Ray, Jr.
Assistant Attorney General

GTR,Jr/lt